

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MOSAIC POTASH CARLSBAD, INC.,

Plaintiff,

vs.

Civ. No. 16-808 KG/SMV
Consl. with Civ. No. 17-1268 KG/SMV

INTREPID POTASH, INC.; INTREPID
POTASH-NEW MEXICO, LLC; and
STEVE GAMBLE,

Defendants.

ORDER VACATING PRETRIAL CONFERENCE AND JURY TRIAL

This matter comes before the Court *sua sponte*. On March 11, 2020, the Governor of New Mexico declared a public health emergency due to the Coronavirus Disease 2019 (COVID-19) outbreak. The President of the United States subsequently declared a national emergency on March 13, 2020. On that same day, Chief United States District Judge William Johnson entered an Administrative Order noting that the United States Centers for Disease and Prevention (CDC) reported “that the spread of COVID-19 is a pandemic.” (Doc. 368); 20mc00004, (Doc. 9). Considering the seriousness of the COVID-19 outbreak, Chief Judge Johnson continued all jury trials scheduled to begin on or before April 10, 2020, until further order of the Court, “to protect public health with the goal of reducing the size of public gatherings while balancing the fair administration of justice....” *Id.* at ¶ 1. Chief Judge Johnson also ordered that “[t]he Court may issue other orders concerning future continuances as necessary and appropriate.” *Id.*


On March 16, 2020, the President of the United States issued “The President’s Coronavirus Guidelines for America.” To slow the spread of COVID-19, the Guidelines state that people should avoid social gatherings of more than 10 people. The Guidelines also indicate

that people should avoid discretionary travel. The CDC and other public health entities, including the White House, agree that social distancing is a means of limiting further community spread of COVID-19.

The Court is concerned with the health and safety of the public, Court employees, litigants, counsel and their staff, and jurors, who must work in close quarters to hear evidence and to deliberate. Given the severity of the risk of exposure to COVID-19 to the persons listed above, and considering matters of public health, including reducing of the size of public gatherings and minimizing the need for travel, the Court finds it necessary and appropriate to order the following:

1. the pretrial conference set for April 16, 2020, is continued until further order of the Court;
2. the jury trial set for April 27, 2020, is continued until further order of the Court;
3. the pretrial deadlines set forth in the Joint Motion for Entry of Revised Pretrial Order (Doc. 342-1) are adopted by the Court and are not affected by this Order Vacating Pretrial Conference and Jury Trial:
 - a. the parties must completely brief motions in limine by March 24, 2020 (i.e., responses due by March 24, 2020);
 - b. the parties must supplement their exchanged exhibit lists by March 17, 2020;
 - c. the parties must file stipulated and opposed exhibit lists by March 27, 2020;
 - d. the parties must file objections to exhibit lists by April 6, 2020;
 - e. the parties must file witness lists by April 3, 2020;
 - f. the parties must file deposition designations by March 18, 2020;
 - g. the parties must file objections to deposition designations by March 27, 2020;

- h. if the parties cannot resolve the objections to deposition designations, they must notify the Court of the remaining deposition designation disputes by April 13, 2020;
- i. the parties must file proposed voir dire questions by April 10, 2020;
- j. each party must serve on the others its proposed jury instructions by March 11, 2020;
- k. the parties must exchange informal objections to proposed jury instructions by March 18, 2020;
- l. the parties must meet and confer by March 20, 2020, on the proposed jury instructions to identify which instructions can be agreed upon and which remain in dispute;
- m. the parties must file one mutually approved set of proposed jury instructions by March 27, 2020;
- n. the parties must file contested proposed jury instructions by March 27, 2020;
- o. the parties must file objections to proposed jury instructions by April 1, 2020;
- p. the parties must file an agreed statement of the case by April 10, 2020;
- q. the parties must notify the Court by April 13, 2020, if they seek to use AV or other special equipment for trial;
- r. the parties must exchange graphic/demonstrative exhibits by April 17, 2020, and *failure to do so will result in exclusion of graphic/demonstrative exhibits*; and
- s. the parties must file objections to graphic/demonstrative exhibits by April 22, 2020.


UNITED STATES DISTRICT JUDGE